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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,391	12/07/2001	Nabil Enrique Salman	8384R	6122

27752 7590 07/02/2003

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EXAMINER

TRUONG, THANH K

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 07/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/010,391

Applicant(s)

SALMAN ET AL.

Examiner

Thanh K Truong

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10,12,17 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9,11,13-16,18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-9, 11, 13-16, 18 and 20 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that "the Examiner's comments regarding the restriction are merely conclusory" and "there would be no significant burden placed on the Examiner" to search and examine the groups together. This is not found persuasive because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 10, 12, 17 and 19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: figures 4, 5 & 6 fail to show reference number 70 (cutting means 70, page 7, line 30 and page 8, line 5). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "passageway is

curved" in claim 9 (lines 1-2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claims 13 and 16 are objected to because of the following informalities: claim 13 and 16 are identical to each other, and they are both dependences of claim 1. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 3-5, 11, 15, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, lines 1-2, the phrase "tubular sheet includes an adhesive" is vague and indefinite, because it is unclear how the adhesive is distributed on the tubular sheet; is the adhesive covers as a layer on the entire tubular sheet or just portion of the tubular sheet? Similarly, the phrase "an adhesive disposed on at least one surface" in claims 11 and 15 is found vague and indefinite.

Claim 4, the phrase "separating means comprises at least one separable region of the tubular sheet" (lines 1-2) is vague and indefinite, because it is unclear what is the

applicant referred to as "separating means"? Is the "separating means" part of the tubular sheet? The applicant's disclosure did not support this structure as claimed; page 7, lines 28-30 to page 8, lines 1-2 and figures 1 & 4, discloses that the "separating means" locate on packaging device 10 not part of the tubular sheet.

The phrase "can be" uses in claims through out the application is indefinite, because it fails to clearly define a positive limitation of the claimed invention. The phrase "can be" implies that something may or may not be; therefore it does not clearly define the structure of the claimed invention.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1, 2, 4, 8, 9, 13 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Lecomte (6,065,272).

Lecomte discloses (figure 1) an article packaging device comprising: an inlet end "I" (reference signs "B", "C", "I", "O", "X", "Y" are marked by the examiner on figure 1); an outlet end "O"; a body "X" formed by an inner core having an inlet opening and an outlet opening, and a passageway therebetween; a casing "Y" comprising a casing wall around the body, the casing joined to the body with a storage space "C" between them; A tubular sheet 3 within the storage space, the tubular sheet dispensable through a dispensing opening between the body and the casing and into the inlet opening of the inner core; and a means 5 for gathering the tubular sheet and separating the packaged article from a trailing portion of the tubular sheet and the device.

Lecomte further discloses: the separating means comprises a cutting means for cutting through the trailing portion of the tubular sheet to form a packaged article (column 2, lines 9-13 and column 5, lines 20-24); the inlet opening is circular; the passageway is curved (figure 1 shows the passageway is curved at the top where sheet 3 is guided into the inlet opening); and the tubular sheet is in a layered stack.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3, 5-7, 11, 14, 15, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lecomte (6,065,272) in view of Hamilton et al. (5,662,758).

As discussed above in paragraph 9 of this office action, Lecomte discloses the claimed invention, except that the tubular sheet comprises the adhesive material.

Hamilton discloses a flexible film having pressure sensitive adhesive protected from inadvertent adherence (abstract); the flexible film having a recessed pressure sensitive adhesive and collapsible protrusions (three-dimensional film) which serve as stand-off to prevent premature sticking to wide variety of rigid and resilient target surfaces, wherein the collapsible protrusions are small and closely spaced for releasable sealing of the composite material to such surfaces or even to itself (column 3, lines 20-26).

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Lecomte apparatus by applying the flexible film with adhesive as taught by Hamilton providing a flexible material having pressure sensitive adhesive that is protected from inadvertent adherence to other surfaces.

The modified Lecomte apparatus further discloses an indexing means where the distance between the pickup position and the deposit position is maintained substantially constant (column 4, lines 18-33).

Regarding to claim 15, Lecomte discloses the claimed invention, but did not expressly disclose the device having a compact dimension as cited in claim 15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the device having a compact dimension (as cited in claim 15) providing consumers a portable, light weight device, since it has been held that where the general

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conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

**Conclusion**


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (703) 605-0423. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9301.

tkf  
June 25, 2003

  
Stephen F. Gerrity  
Primary Examiner